



California Fair Political Practices Commission

April 10, 1989

John P. Mott-Smith
Office of the Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-89-153

Dear Mr. Mott-Smith:

You have requested advice regarding the mass mailing provisions of the Political Reform Act (the "Act").¹ You are requesting confirmation of previous telephone advice and seek written advice relating to certain specific agency forms.

QUESTIONS

1. Can the name of a county elected official appear in the return address portion of voter registration cards mailed by that official in compliance with his or her statutory obligations regarding voter registration in mailings to 200 or more persons?

2. Can the name of the Secretary of State appear in the return address portion of a voter registration form used in similar mass mailings?

3. Can the name of the elected official or the Secretary of State, as appropriate, appear in the address portion of the return postcard form?

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

CONCLUSIONS

1 and 2. The name of the elected county official or the Secretary of State, as appropriate, may appear in the return address portion of the voter registration form, because it is a standard form mailer of the agency.

3. The name of the elected county official or the Secretary of State, as appropriate, may appear in the address portion of the detachable return card, since it is essentially a separate standard form mailer of the agency.

FACTS

You have provided copies of voter registration forms sent by county election officials, some of whom are elected, and by the Secretary of State. These forms are prepared at the direction of the Secretary of State's office. Each form is designed to be a self-mailer. The name of the sender (the county election officer or the Secretary of State) is included in the return address portion of the mailer. Part of the mailer is a detachable form to be completed by the recipient and returned. The reverse side of this form is a postage-paid pre-addressed post card. The address portion of the card also includes the name of the county election official or the Secretary of State. In our prior telephone conversation, you indicated that a similar type of self-mailer is used for sending voter notification cards. All of these forms have been in use for many years.

ANALYSIS

Section 89001 states, "No newsletter or other mass mailing shall be sent at public expense." A mass mailing is defined as more than 200 substantially similar pieces of mail other than a form letter or other mail sent in response to an unsolicited request. (Section 82041.5.) The Commission adopted Regulation 18901 at its December 6, 1988 meeting to implement the provisions of Section 89001.²

Subdivision (e) of Regulation 19801 contains the following exception to the general prohibition on mass mailings at public expense:

(e) A newsletter or other mass mailing is not prohibited by Government Code Section 89001 if it meets all of the following criteria:

² This regulation was approved by the Office of Administrative Law on March 13, 1989.

(1) The stationery, forms and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and

(2) The name of an elected officer who is affiliated with the agency or committee appears in the standard letterhead or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the newsletter or mass mailing is not otherwise prohibited under subdivision (c).

As used in this subdivision, the term "letterhead or logotype" includes a listing of agency or committee officials of members, in which all who are listed appear in the same typeface and type size and location in the layout of the newsletter or other mass mailing.

As used in this subdivision, the term "standard letterhead or logotype" refers to any regularly used by the agency, subunit or the elected officer. Provided, however, that where a newsletter does not use the agency's standard stationery letterhead, a roster listing containing the names of all elected officers in the agency may be used in the newsletter in place of the agency's standard stationery letterhead.

It has previously been determined that the an elected county official's name may appear in the return address portion of a standard envelope of the agency. (Bolinger Advice Letter, No. A-89-082, copy enclosed.) In this case, the standard "envelope" is a return mailer form, which is a standard form of your agency. Therefore, it is permissible for the name of the elected official to appear in the return address portion of this "envelope." By the same token, the official's name may be included in the address portion of the return post card, since that is essentially a separate standard form "envelope" of the agency. (Gentry Advice Letter, No. A-89-166, copy enclosed.)

You did not include copies of your voter notification forms or your purge cards, so it is not possible to evaluate them. In our previous telephone conversation, the advice was given that the names of the elected officials and the Secretary of State could be included in the return address portion of the voter notification forms which were standard self-mailers. We did not specifically discuss purge cards. If they are also self-mailers, the advice given above would apply equally.

John P. Mott-Smith
April 10, 1989
Page 4

Please be advised, however, that all exceptions to Regulation 18901 are to be narrowly construed. The fact that an elected official's name might be permitted in the return address of a standard form envelope based upon the exception set forth in subdivision (e), does not mean that the mailing is therefore exempt from the mass mailing restrictions generally. Any other use of the official's name, photograph, signature, or reference to his or her office would still be prohibited unless it came within another exception.

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Margaret W. Ellison
Counsel, Legal Division

DMG:MWE:aa

Enclosures



Office of the Secretary of State
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1230 J Street
Sacramento, California 95814

ELECTIONS DIVISION
(916) 445-0820
For Hearing and Speech Impaired
Only:
(800) 833-8683

March 1, 1989

Fair Political Practices Commission
Legal Division
428 J Street, Suite 800
Sacramento, California 95814

Attention: Margaret Ellison

Dear Ms. Ellison:

This letter is to follow up on our telephone conversation of February 16, 1989. As you will recall, during that conversation you advised me that the mass mailing restrictions in Government Code section 89001 do not apply to voter registration forms, voter notification forms, and purge notices. These forms fall under the provisions of this section which describe allowable exemptions from the mass mailing requirements.

Our office has relied upon this "telephone advice" to authorize the completion of printing orders currently in-house at the State Printing Plant.

Prior to any subsequent printings, however, we would like to request formal written staff advice on the following questions:

(1) Can the name of the county elected official appear in the return address portion of voter registration cards mailed by that official in compliance with his or her statutory obligations regarding voter registration in mailings to 200 or more persons?

Enclosed please find an example of a voter registration form currently being used for this purpose and including the name of the county elected official.

(2) Can the name of the Secretary of State appear in the return address portion of a voter registration form used in similar mass mailings?

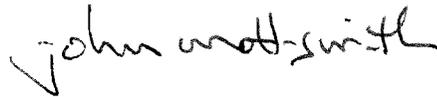
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FPPC

Margaret Ellison
March 1, 1989
Page 2

I appreciate your kind and prompt assistance to my many previous questions and I look forward to hearing from you on this matter. Please let me know if I can provide any further assistance or information to expedite your answer.

Sincerely,

DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

A handwritten signature in cursive script that reads "John P. Mott-Smith". The signature is written in dark ink and is positioned below the typed name.

JOHN P. MOTT-SMITH
Elections Analyst

JPM-S/gw

Enclosures



California Fair Political Practices Commission

March 17, 1989

John P. Mott-Smith
Office of the Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Letter No. 89-153

Dear Mr. Mott-Smith:

You have requested confirmation of advice under the Political Reform Act. We have reviewed your request and determined that it is not appropriate for response with a simple confirmation. Therefore, we will be preparing a fuller analysis of the issues raised in your letter to us. After the analysis has been prepared and approved, we will forward it to you as quickly as we can.

If you have any questions, you may contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script, appearing to read "Margaret W. Ellison".

Margaret W. Ellison
Counsel, Legal Division

MWE:plh:confadv2



California Fair Political Practices Commission

March 10, 1989

John P. Mott-Smith
Office of the Secretary of State
Elections Division
1230 J Street
Sacramento, CA 95814

Re: Letter No. 89-153

Dear Mr. Mott-Smith:

Your letter requesting advice under the Political Reform Act was received on March 9, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margaret Ellison an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh